In the Matter of Arbitration between	)	
KING COUNTY FIRE PROTECTION DISTRICT NO. 16	)	
and	)	**PERC Case No. 6970-I-87-164**
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 2459	)	

Dated Issued: July 6, 1988

INTEREST ARBITRATION
OPINION AND AWARD
OF
MICHAEL H. BECK

FOR THE ARBITRATION PANEL

Michael H. Beck	Neutral Chairman
Rex H. Lindquist	Union Member
Cabot Dow	Employer Member

Appearances:

KING COUNTY FIRE PROTECTION DISTRICT NO. 16	W. Mitchell Cogdill
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 2459	William L. Williams

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INTEREST ARBITRATION OPINION

PROCEDURAL MATTERS

RCW 41.56.450 provides for arbitration of disputes involving uniformed personnel when collective bargaining negotiations have resulted in impasse. Accordingly, a tripartite arbitration panel was formed with respect to the instant matter. The Employer, King County Fire Protection District No. 16, (Kenmore) appointed Cabot Dow as its member of the panel, and the Union, International Association of Fire Fighters, Local 2459, appointed Rex Lindquist as its member of the panel. In turn, these two members selected the undersigned to serve as Neutral Chairman of the panel.

A hearing in this matter was held on March 15 and 16, 1988 in Kenmore, Washington. The Employer was represented by William L. Williams, Attorney at Law, and the Union was represented by W. Mitchell Cogdill of the law firm Cogdill, Deno, Millikan & Carter. At the hearing the testimony of

witnesses was taken under oath and the parties presented documentary evidence. A court reporter was present and made a record of the proceedings, but the record was not transcribed for use by the Neutral Chairman (hereinafter Chairman). By letter dated March 29, 1988, the parties informed the Chairman that the parties would submit posthearing briefs. The last such brief was received by the Chairman on May 12, 1988. Thereafter, the Chairman was required to rule on a posthearing motion. The record in this matter was closed on the date of that ruling, May 31, 1988.

At the request of the Chairman, the parties have agreed to extend the time for issuance of a decision until July 15, 1988. On June 28, 1988, the Chairman met with the other members of the Arbitration Panel. A discussion of the issues occurred which was very helpful to the Chairman. In accordance with the statutory mandate, I set forth herein my findings of fact and determination of the issues.

ISSUES IN DISPUTE

Pursuant to letters to the Chairman from both parties dated March 9, 1988, the following issues were presented for arbitration by the panel:

Term of Agreement

Wages

Premium Pay

Holidays

Hours of Duty

Overtime

STATUTORY CRITERIA

RCW 41.56.460 directs that the following criteria shall be taken into consideration as relevant factors in reaching a decision:

> [T]he panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decision it shall take into consideration the following factors:
> (a) The constitutional and statutory authority of the employer;
> (b) Stipulations of the parties;
> (c)(i) For employees listed in *RCW 41.56.030(6) (a) and (c), [uniformed personnel other than fire fighters] comparison of the wages, hours and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

> (ii) For employees listed in *RCW 41.56.030(6)(b), [fire fighters] comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers shall not be considered;
>
> (d) The average consumer prices for goods and services, commonly known as the cost of living;
>
> (e) Changes in any of the foregoing circumstances during the pendency of the proceedings; and
>
> (f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

As the code revisors' note indicates, a portion of Chapter 521 [Engrossed Substitute House Bill No. 498] which was passed by the Legislature during the 1987 Legislative Session and which made certain changes in RCW 41.56.460 was partially vetoed by the Governor. However, Section 2 of that Bill, which made certain changes with respect to how comparables are to be selected in cases involving fire fighters was not vetoed and appears as 41.56.460(c)(ii).

The Legislative purpose which your Chairman is directed to be mindful of in applying the standards and guidelines in reaching his decision is set forth in RCW 41.56.430 as follows:

> The intent and purpose of this . . . act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

COMPARABLE EMPLOYERS

Prior to the passage of Engrossed Substitute House Bill No. 498 during the 1987 Legislative Session, fire fighters were subject to the same requirements as those presently set forth in RCW 41.56.460 (c)(i). The changes with respect to fire fighters are twofold. First, the phrase "public fire departments" was substituted for the phrase "like employers." Secondly, the last sentence of RCW 41.56.460 (c)(ii) did not appear in the statute prior to the 1987 Legislative change.

Both parties are in agreement that the substitution of the phrase "public fire departments" for the phrase "like employers" with respect to fire fighters was taken by the Legislature in order to make clear that all employers operating a public fire department, whether it be a department maintained by a city, a county, or a fire

protection district, would be considered a comparable employer as long as such employer was of similar size and on the west coast of the United States. However, the Employer takes the position that the above-discussed change in the statute along with the addition of the last sentence of RCW 41.56.460 (c)(ii) made clear that the only geographic limitation was the State of Washington. Thus, as I understand the Employer's argument it is that if there are an adequate number of comparable employers within the State of Washington, then not only shall west coast employers not be considered, but all such employers within the State of Washington must be considered. That is, the Arbitration Panel would be precluded from limiting its consideration to a particular labor market within the State of Washington, even though such comparison would yield an adequate number of comparable employers.

Additionally, the Employer contends that population is the only appropriate measure of similar size. Both the Employer and the Union agree that the relevant population figure for the Employer is 24,000. They also both agree that the population range should be from thirty percent below 24,000 (16,800) to thirty percent above 24,000 (31,200). Using the 30% plus or minus approach, the

Employer determined that there were twenty-four comparable jurisdictions within the State of Washington.

The Union does not agree with the Employer's contention that population is the only appropriate basis upon which to measure size. In the Union's view, population is only one of the three most relevant measures of size, the other two being the size of the geographic area served by a public fire department and the number of personnel in the appropriate bargaining unit of the public fire department. Of secondary relevance, but still worthy of consideration according to the Union, are a fire department's budget and the assessed valuation of property within the area served by the fire department.

In addition to size, the Union urges the Panel to consider the geographic proximity of other public fire departments to the Employer here. In this regard, the Union did place in the record evidence which established that the parties, to some extent, had used nearby jurisdictions for purposes of making wage and benefit comparisons during the bargaining process, both with respect to the Collective Bargaining Agreement before the Panel here, as well as several prior agreements. Additionally, the evidence indicated that the Employer here used these same "traditional" comparators when establishing wage levels for the newly

created position of Battalion Chief in early 1986. These five jurisdictions are Snohomish County Fire Protection District No. 1 (SCFPD, No. 1), King County Fire Protection District No. 36 (Woodinville), King County Fire Protection District No. 4 (Shoreline), Kirkland, and Bothell. The evidence indicates that Redmond has also been used by the parties as a "traditional" comparator to some extent. However, the record does not contain information regarding the size or wages structure of Redmond. Therefore, I have not included it as a "traditional" comparator.

None of the "traditional" comparators, with two exceptions, meet the Union's criteria of being of similar size with respect to what the Union considers to be the three major factors of comparability, namely, population, square miles and number of bargaining unit personnel. The exceptions are KCFPD No. 36 (Woodinville), which is within the plus or minus 30% range regarding population and number of bargaining unit personnel, and Bothell, which is within the plus or minus 30% range with respect to number of bargaining unit personnel.

Apparently in recognition of the fact that the traditional comparators lack size comparability to the Employer, the Union has selected the following public fire departments as comparable: Edmonds, Lynnwood, Mercer Island, Puyallup,

and KCFPD No. 24 (Angle Lake). These five jurisdictions are within a range of thirty percent below to thirty percent above the Employer here with respect to population, square miles, and number of bargaining unit personnel, with one exception. The only exception relates to bargaining unit personnel in the case of Lynnwood, which has a bargaining unit compliment of employees slightly in excess of thirty percent of those employed by the Employer here. Further, all five jurisdictions, which the Union refers to as "Category I" comparators, are in close geographic proximity to the Employer here.

Recognizing that the Panel may conclude that the five Category I jurisdictions may not be deemed to constitute a sufficient number of comparators, the Union proposes a second group of comparators identified as "Category II" comparators. There are fourteen of these comparators located in Snohomish, King or Pierce counties. These fourteen are Pierce County Fire Protection District (PCFPD) Nos. 3, 5, 6 and 7; King County Fire Protection Districts (KCFPD) Nos. 2, 11, 25, 26, 36, 40 and 43; Snohomish County Fire Protection District (SCFPD) No. 12; Bothell; and Mountlake Terrace. With the exception of Mountlake Terrace, all Category II jurisdictions are within the plus or minus thirty percent range with respect to at least one of the

Union's five measures of size as of 1987. Although Mountlake Terrace did not fall within this range with respect to any of the five measures, it did come fairly close to that range with respect to several of the five measures of size.

Finally, with respect to comparators the Union takes the position that the traditional comparators, discussed above, are also acceptable as comparators to the Union. In fact, two of the traditional comparators, Bothell and KCFPD No. 36 (Woodinville) are also included among the Category II comparators.

Even if your Chairman were to assume that population is the only appropriate measure of size (an assumption I am not prepared to make), I find that twenty-four comparators is simply too many. If the Panel were to find that twenty-four comparators are an appropriate number of comparators, then it is likely that the parties in their future negotiations would feel compelled to use these comparators. The effort and expense involved in accumulating and analyzing wage and benefit information with respect to twenty-four comparators seems unnecessarily burdensome.

Furthermore, I cannot accept what I understand to be the Employer's conclusion under the present statute that if there is an adequate number of comparable employers within

the State of Washington, then the statute requires that in such a situation all employers within the State of Washington who may be said to be comparable must be included as comparators. The statute, as I read it, requires no such result. All it requires is that if there are an adequate number of comparable employers within the State of Washington, other west coast employers shall not be considered.

It should also be pointed out that the criteria for determining comparable employers are simply too broad to ascertain with any certainty the exact number of comparable employers within the State of Washington. It is perhaps in recognition of this fact that the Employer suggests that only population can be considered as a measure of size. In any event, there is no dispute between the parties that population is a major relevant factor and I have determined to give it considerable weight. However, in order to limit the number of comparators, I think it appropriate to consider seriously the Union's contention regarding geographical proximity.

With respect to the question of geographical proximity, I note the testimony of the Union's expert witness, Professor David Knowles, an economist with the Albers School of Business at Seattle University. He testified regarding

the use of labor markets in connection with economic decision making. Thus, he testified that a labor market is a geographic area where common factors impact a workforce. In this regard, he testified that economists take the view that it is helpful to look at specific labor markets in making economic determinations, such markets generally have common housing as well as supply and demand patterns. In this regard, he pointed out that changes in wage rates and unemployment figures will vary by labor market. It was also his testimony that the King/Snohomish County area constituted a labor market. As I understand Professor Knowles' testimony, he did indicate that Pierce County could be included within the same labor market as includes the Snohomish/King County area, but that there are various labor and employment factors which did distinguish Pierce County from the King/Snohomish County labor market.

The use of labor markets as a means of selecting among comparable employers of similar size has been used by arbitration panels many times in the past. Contrary to the Employer's position, I do not find that the substitution of the phrase "public fire departments" for "like employers" in RCW 41.56.460 indicates any intent by the Legislature to change that practice. As already indicated, the substitution of the term "public fire departments" for "like

employers" had to do with a desire by the Legislature to remove any possible implication that the word "like" referred to the political status of the jurisdiction operating a fire department, such as a city, county or fire protection district. Further, in the last sentence of RCW 41.56.460 (c)(ii), the Legislature placed the phrase "comparable employers" in discussing an adequate number of comparators, rather than repeating the phrase "public fire departments." This fact clearly indicates that the Legislature was not attempting to change the practice, freely employed by arbitration panels in the past, of employing labor market as a consideration in selecting comparators in appropriate circumstances.

In the instant case, as Dr. Knowles testimony indicated, the Employer, King County Fire Protection District No. 16 (Kenmore), is located pretty much in the middle of the King/Snohomish County labor market. As such, employees who work for the Employer are subject to the same economic stimuli as are employees who work for other public fire departments located in the King/Snohomish County labor market.

The question which now faces your Chairman is how to select an appropriate number of comparators from those suggested by the Employer and the Union. Based on all of

the foregoing, it does appear appropriate, in the instant case, to consider similar size, based on population, but limited to those jurisdictions in a common labor market, namely, the King/Snohomish County labor market. When one does this, one finds that there are at least ten comparators which have been suggested by both the Employer and the Union. These include four of the five Category I comparators suggested by the Union, namely, Edmonds, Lynnwood, Mercer Island, and KCFPD No. 24 (Angle Lake); and six comparators listed by Union as Category II comparators, namely, KCFPD No. 25 (Kennydale), No. 26 (Des Moines), No. 36 (Woodinville), No. 40 (Spring Glen), No. 43 (Maple Valley), and SCFPD No. 12. I also note that the six Category II comparators, listed above, also come within a plus or minus thirty percent range for at least one of the four Union's measure of size other than population for 1987, except KCFPD No. 25.

The Employer's list of twenty-four comparators indicates that there are two jurisdictions within King and Snohomish County which meet the plus or minus thirty percent criteria and are not listed by the Union in any category. These jurisdictions are: KCPFD No. 20 and SCFPD No. 4. I have determined not to include KCFPD No. 20, as a comparator since the Employer exhibits indicate that the contract for

1988 has not been settled and, therefore, figures are not available. With respect to SCFPD No. 4, the Employer has provided the figures for 1988, and since the Employer's evidence indicates that this jurisdiction meets the population criteria, I have included it as a comparator. Thus, there are eleven comparators: King Nos. 24, 25, 26, 36, 40, 43, Snohomish Nos. 4, 12, Edmonds, Mercer Island, and Lynnwood. Considering all of the facts and circumstances of this case, your Chairman believes these eleven comparators constitutes an adequate number of comparators without being too burdensome a number of comparators.

TERM OF AGREEMENT

The Employer seeks a two year agreement effective January 1, 1987 through December 31, 1988, while the Union proposes a three year agreement effective January 1, 1987 through December 31, 1989.

A major concern of the Employer in seeking an agreement with the term of two years is the possibility that a planned additional fire station will be opened sometime in 1989. Thus, it is the Employer's contention that to award a three year agreement would tie the Employer's hands in negotiating new provisions necessary to better utilize personnel and resources. However, several Union witnesses testified that

it was unlikely that the new fire station would be opened prior to 1990. Further, Chief Leslie Eaton testified that no architectural or engineering plans for the new station exist at present, nor have any permits necessary to begin construction been obtained.

A two year term would cause the Agreement to expire less than six months after the date of this Arbitration Award, thus placing the parties almost immediately back in negotiations. Considering that the parties have been in negotiations since 1986, such a state of affairs would, as even Chief Eaton admitted, have a negative impact on the morale of the fire fighters, and certainly could not be said to promote collective bargaining as an effective means of resolving disputes, as is contemplated by the statute.

WAGES

Union Proposal

1987: Increase monthly salaries by 8.51% effective January 1, 1987.

1988: Increase monthly salaries by 2.7% over the 1987 salary effective January 1, 1988.

1989: Increase monthly salaries effective January 1, 1989 by same percentage as the increase in the Consumer Price Index for urban consumers (CPI-U) Seattle area from January 1987 to January 1988.

Employer Proposal

1987: Increase monthly salaries effective January 1, 1987 by same percentage as the increase in the Consumer Price Index for urban wage earners and clerical workers (CPI-W) Seattle area during the period November 1985 through November 1986, which the Employer states would result in a .3% wage increase.

1988: Effective January 1, 1988 an increase in base monthly salary equal to 90% of the increase in the CPI-W Seattle area during the period midyear 1986 through midyear 1987, resulting, according to the Employer, in an increase of 1.26% above the 1987 monthly salary.

1989: No proposal since Employer seeks a two year agreement.

The vast difference in what the parties consider to be an appropriate wage increase pursuant to the statute results in significant part from two factors. First, their differing views as to the method of selecting appropriate comparators. With respect to this matter, I have earlier in this Opinion fully discussed the basis upon which the appropriate comparators have been selected.

The second major area of dispute between the parties regards the determination of the basis upon which wages are to be compared among the comparators selected. The Union

contends that the comparison should be made on a total hourly compensation basis taking into account virtually all aspects of wages and other benefits received by fire fighters including, for example, social security contributions made by the Employer as well as the cost of various insurance benefits. These figures are all added together on a monthly basis to come up with a total monthly wage. The Union then would divide this figure by what it calls total monthly hours, which is a figure reached by taking scheduled hours per month and subtracting on a monthly basis vacation and holidays.

The Employer agrees that an hourly rather than a monthly wage figure is appropriate for comparison purposes among the comparators. A review of the various exhibits submitted by the Employer indicates that the Employer would accept several methods of computing an hourly pay rate. In its posthearing brief at page 12, the Employer sets forth the following formula for computing what it refers to as a net hourly rate:

$$\frac{\text{monthly salary + longevity + EMT/Driver Prem.}}{\text{monthly sched. hours - vacations - holidays}} = \text{net hrly rate}$$

As indicated above, the Union would agree to the following formula as far as it goes, but would add to the numerator of the formula virtually all aspects of compensation including such items as the Employer's contribution to social security as well as various insurance programs.

Since both parties are of the view that making comparisons based on hourly rate is appropriate, the Panel deems it appropriate to comply with the wishes of the parties. However, a choice must be made between the methods of computing hourly pay contended for by each party. It is the opinion of the Chairman that the Employer's method for computing hourly pay is the preferable method. In this regard it must noted that the cost to the Employer of benefits such as health insurance or life insurance does not represent direct compensation paid to employees. Furthermore, such benefits may have widely differing values to employees depending on the specific terms of such benefits and an employee's individual situation. For example, health insurance may be of substantially greater value to an employee whose spouse is not receiving health benefits at his or her place of employment than to an employee whose spouse is receiving broad health insurance coverage at his or her place of employment.

In the chart set forth below, I have listed the hourly net wage in 1988 for each of the eleven comparators rank order from the highest hourly net wage to the lowest:

HOURLY WAGE FOR 1988

Comparator	Net Hourly Wage
Snohomish No. 12	$17.42
Snohomish No. 4	$14.74
King No. 26	$14.70
Mercer Island	$14.67
Lynnwood	$14.54
King No. 25	$14.40
Edmonds	$14.33
King No. 24	$14.17
King No. 40	$13.07
King No. 36	$12.95
King No. 43	$12.12
Average	$14.28
King No. 16	$13.23
Amount King No. 16 below the average	$ 1.05
Percentage Increase necessary to bring King No. 16 to the average	7.9%

Before beginning to draw conclusions from the foregoing chart, a few further words about the source of the figures used in this chart should be set out. The figures set forth above come from Attachment B to Exhibit No. 62 which was placed in evidence by the Employer. That document sets forth the net hourly wage for a top step six year fire

fighter at each comparator based on the Employer formula, which, as discussed above, has been approved as the appropriate way of computing hourly wage. However, I have also carefully reviewed each of the Union exhibits which set forth by comparator for a six year top step fire fighter the information necessary to make the computation pursuant to the formula which I have determined appropriate for computing hourly wage. Of the eleven comparators, the Union has provided information with respect to all except Snohomish No. 4.

My review of the Union's information indicates that with respect to seven of the ten for which the Union has information, the Union supplied figures reveal either the same or a very insignificant difference in the hourly wage with that set forth on Attachment B of Exhibit No. 62. There are three exceptions, these are set forth in the chart below:

RECONCILIATION OF EMPLOYER/UNION DIFFERENCES IN COMPUTING HOURLY WAGE

	Employer	Union	Computation From Union Exhibit No.
Snohomish No. 12	17.42	13.01	14j
King No. 26	14.70	16.42	14f
King No. 43	12.12	12.58	14k
Average	14.75	14.00	

As can be seen from the foregoing chart, the hourly wage differences between the figures set forth by the Employer on Attachment B, Exhibit No. 62 and the figures I have computed based on using the relevant Union exhibits shows that the difference actually favors the Union here. This is because the Employer figures for these three comparators is higher than those obtained by using the Union's figures, thereby placing the fire fighters in District No. 16 further behind the average then if the Union figures were used. However, my decision to use the Employer figures for these three cases was not based on the fact that to do so benefits the Union, but on the fact that my review of the relevant collective bargaining agreements contained in Exhibit No. 48 indicates that the Union used an incorrect gross monthly hours figure in each of the three cases on its exhibits.

As the chart on page 20 indicates, the Employer fire fighters would need a raise of 7.9% over two years to reach the average paid by the eleven comparators. Two questions remain, however. First, how should the statute's directive that the Panel take into account the cost of living be applied in this case, and, secondly, whatever raise is provided, how should it be distributed over the two year period, 1987 and 1988? In support of its position, the

Employer stresses the relatively low increase in the cost of living as measured by the CPI-W for the Seattle area between November of 1985 and midyear 1987, which was 1.5%. Further, the Employer points to the fact that since November of 1979, the increase in the cost of living as measured by the Seattle area CPI-W was substantially less than the increase in top step fire fighter base monthly wage during that period. A review of Exhibit No. 51 submitted by the Employer indicates that the Seattle area CPI-W stood at 225.5 as of November 1979. That index was at 310.8 as of the end of 1986, (Nov. 86) when the prior contract came to an end, which is an increase of 37.8%. The same exhibit indicates that the top step fire fighter base monthly salary was $18,134 as of November 1979 and $29,857 as of the end of 1986 an increase of 64.7%.

The Employer contends that using the November 1979 period as a base is appropriate in order to gain a proper perspective as to how the Kenmore fire fighters have advanced in salary as compared to the increase in the cost of living as measured by the Seattle area CPI-W. In this regard, the Employer points to the fact that the only prior interest arbitration between the parties resulted in the panel there providing a wage increase to Kenmore fire fighters effective November 1, 1979 that placed them in a

position of parity with the comparators used at that time. Therefore, the Employer argues if the fire fighters were at parity with the relevant comparators as of November 1, 1979, then a comparison of their increase in base wage vis-a-vis the increase in the cost of living during the same period of time would be relevant in determining how Kenmore fire fighters have fared with respect to wage increases.

While I find that in general this argument of the Employer has merit, it should be noted that Arbitrator Gillingham, who was the Neutral Chairman in the prior interest arbitration, pointed out at Exhibit No. 51A, page 2, that the comparators in that case were a group of twelve fire protection districts. Arbitrator Gillingham then went on to state regarding this group of comparators:

> [T]his is a relatively conservative comparison group because as a group the fire protection districts generally rank somewhat below the prevailing salary and fringe benefit levels in nearby city and county jurisdictions.

Exactly how the comparators were chosen at the time of the Gillingham arbitration decision is not clear from the record. In any event, even the Employer here does not dispute that an appropriate set of comparators would include cities in addition to fire protection districts. The foregoing leads to the conclusion that if the comparators

used in 1979 were the same as those considered appropriate here, the salary to be provided to Kenmore fire fighters in order to achieve parity would have been greater than the $18,134 paid fire fighters effective November 1979. If this were the case, then the percentage represented by the increase that fire fighters have received to date would be lower than is presently the case and, thus, closer to the rise in the cost of living as measured by the Seattle area CPI-W.

The figures necessary to compute an average for the comparators considered appropriate here as of November 1979 are not before the Panel. In any event, it is clear that the cost of living in the Seattle area has been extremely low in the two years immediately preceding the contract term here. Thus, Seattle area CPI-W advanced only 2% between November 1984 and November 1986 while Seattle area CPI-U advanced only 2.5% during the same period. On the other hand the base annual wage for a top step fire fighter went from $27,960 at the end of 1984 to $29,857 at the end of 1986, which is an increase of 6.8%. It does appear that based on the relatively low rise in the Seattle area cost of living in the past several years and the fact that since the last interest arbitration between the parties the base wage of Kenmore fire fighters has out paced the Seattle area CPI

by a substantial margin, the full 7.9% necessary to bring the Kenmore fire fighters to the average of the comparators based on hourly wage is not appropriate pursuant to the statutory criteria.

After carefully reviewing all of the foregoing, it is the opinion of your Chairman that an increase which would bring the Kenmore fire fighters to within 80% of the average within two years would be appropriate. Such a raise would be substantial, and would allow Kenmore fire fighters to make significant progress toward the average net hourly wage, but also would give due weight to the statutory requirement that the Panel also consider the cost of living.

A 7.9% raise on the current base salary of $2,488.10 comes to $2,684.66. When one subtracts the present monthly base of $2,488.10 from $2,684.66, one comes up with a figure of $196.56, representing the dollar amount of the 7.9% raise over two years. Eighty percent of that figure is $157.25, and $157.25 plus the present monthly base of $2,488.10 equals $2,645.35 which amounts to a 6.3% raise over the salary of $2,488.10.

The next question that must asked is how should the $157.25 raise be applied over the two years 1987 and 1988? My review of all of the evidence presented does not indicate that a major portion of the raise should be applied to one

year while a minor portion is applied to the other. Rather, a relatively equal distribution of the raise over the two year period is indicated. Thus, approximately one half of the $157.25 raise shall be applied to each year. Therefore, I shall award a $79.00 per month increase for the year 1987, making the base monthly salary for 1987 $2,567.10, which is a 3.2% increase. For 1988, fire fighters shall receive an increase of $78.25 per month giving the top step fire fighter a 1988 base monthly salary of $2,645.35, which is an increase of 3.1% over 1987.

With a base salary of $2,645.35 in 1988, Kenmore fire fighters will be within $9.00 per month of $2,654.01 which is the average base salary of the eleven comparators in 1988. The percentage difference is only .3%. (Average computed from base salary figures appearing on Exhibit No. 47, Attachment B-1.) A base salary at or near the average of the comparators is in the opinion of your Chairman sufficient in all the circumstances here to meet the statutory purpose set forth in RCW 41.56.430 of promoting the dedicated performance of the vital public service engaged in by fire fighters, while giving due weight to the various statutory considerations contained in RCW 41.56.460.

With respect to the other ranks in the fire department, neither party has suggested that the percentage levels vis-a-vis the fire fighter III contained in the 1985-86 agreement be changed. Therefore, the wages of these other ranks shall be increased based on the same percentage levels as is set forth in "Appendix 13, Wages" of the prior agreement (Exhibit No. 41).

With respect to the third year of the Agreement, the Union proposes that the base monthly salary be increased effective January 1, 1989 by the same percentage as the increase in the CPI-U for the Seattle area from January 1987 to January of 1988. The Employer indicates in its brief, at page 14, that if a three year agreement is deemed appropriate, salaries for that year should be increased by 1.71 percent. The Employer bases this increase on the percentage change from midyear 1987 to year end 1987 of the Seattle area CPI-W. This percentage increase was 1.9% and 90 percent of that is 1.71 percent.

I agree with both the Employer and the Union that in the absence of information regarding what the wages of the comparators will be for the year 1989, the appropriate measure of increase, if any, should be based on the change in the cost of living as measured by the CPI. The difficulty with following the Union's suggested method is that

the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor, which produces the CPI, is no longer providing CPI information on a January to January basis for the Seattle area. With respect to the Employer proposal, it does not seem appropriate to base an annual increase on only a change in the CPI over half a year as suggested by the Employer. Further, there is a question as to which CPI index should be relied on in this matter. The Employer seeks reliance on the Seattle area CPI-W, while the Union suggests that the Seattle area CPI-U be utilized.

Recently the BLS has issued a statement in which it recommends that users of the CPI adopt the U.S. City Average CPI for use in escalator clauses as opposed to the local indices due to a larger number of what it terms "sampling and other measurement errors" in the local indices. (Using the Consumer Price Index for Escalation, U.S. Dep't. of Labor, Bureau of Labor Statistics, October, 1986.) However, since both parties suggest use of a Seattle area CPI index, I have determined that it would not be appropriate for your Chairman to impose upon the parties the U.S. City Average CPI. Instead, in order to provide the broadest sampling, and yet meet the parties' desire for the use of a Seattle area index, I have determined that the increase for 1989

should be based on the average percentage increase of the Seattle area CPI-W and the Seattle area CPI-U.

The final question in this regard is what should be the period employed for measuring these indices. It would seem to me that the most appropriate period would be the period most immediately before the increase is to go into effect. For Seattle that would be the period December 1987 to December 1988. However, it is unlikely that the BLS will be able to provide the December 1988 figures in a fashion sufficiently timely for the parties to place into effect as of January 1, 1989 any increase called for by the increase in the Seattle area CPI. Therefore, I have determined that the increase should be based on the period immediately preceding the December to December figures which would be the figures from June to June. Thus, the increase in the third year of the Agreement, namely, 1989, should be equal to an average of the percentage increase from June 1987 to June 1988 of the Seattle area CPI-W and Seattle area CPI-U.

PREMIUM PAY

The Union proposes a premium of one percent of base monthly salary for fire fighters in ranks of Fire Fighter II, Fire Fighter III, and Lieutenant who are certified through the King County Defibrillation Program. The

Employer proposes that no such premium be paid. A review of the comparators does not not support implementation of the Union's requested premium and, therefore, the request is denied.

HOLIDAYS

The Union proposes that the annual holiday hours be increased from seventy-two to ninety-six, and the Employer proposes that no such increase be granted. The holiday data submitted does indicate that Kenmore fire fighters receive fewer holiday hours or less holiday pay than any of the eleven comparators. However, a majority of the comparators work a larger number of net hours per month than do Kenmore fire fighters. The relatively low number of net hours worked per month by Kenmore fire fighters was factored into the wage comparisons made in this case. Therefore, the fact that Kenmore fire fighters have one of the least attractive holiday packages of any of the comparators was, in effect, taken into account in determining the wage structure.

It also should be noted, as the Union admits, that implementation of a new holiday schedule at this point in a three year collective bargaining agreement would be quite disruptive to the work schedule.

For all of the foregoing reasons, the Union's holiday proposal is rejected. It is, however, the recommendation of the Panel that the question of holidays be addressed by the parties in bargaining along with the question of hours of duty as will more fully be explained below.

HOURS OF DUTY

In order to work the number of hours per year required by the Agreement, members of the Kenmore bargaining unit must work approximately a dozen "debit days" per year. At present the Employer is permitted to schedule debit days only on Monday through Friday. The Employer proposes that it be permitted to schedule debit days on any day of the week including Saturday or Sunday and the Union proposes that the present schedule and procedure be maintained.

The parties do agree that the issue is moot with respect to both 1987 and 1988. In this regard, it appears that the Employer's primary concern in generating this proposal was that its scheduling flexibility be increased in the event that an additional facility becomes operational during 1989. However, as discussed in the "Term of Agreement" section of this Opinion, it is quite unlikely that a new station will become operational before 1990.

overtime rate and thereafter is paid overtime in thirty minute increments. The Employer proposes no change in the current overtime provision.

The Union, in its attachment to its March 9, 1988 letter to the Chairman setting forth its proposals, describes its proposal on overtime at paragraph 4 as follows:

> All overtime to be based on a one hour minimum whether on duty or off duty with 15 minute increments (see attached Exhibit B, a copy of the current contract language, and attached Exhibit C, a copy of the proposed language by Union.)

My review of Exhibit C, the newly proposed language, indicates that the one hour minimum is only to be applied to overtime work as a result of a full-tone or callback, or to off duty time spent by an employee honoring an official court subpoena resulting from an employee's affiliation with the District. Both the Union's prehearing and posthearing briefs state that the Union proposes that all overtime, whether called from on duty or off duty, other than that for honoring a court subpoena, should provide for a one hour minimum at time and one-half with fifteen minute increments. Additionally, Exhibit C to the attachment to the March 9, 1988 letter from the Union to the Chairman also indicates that the Union is seeking a change in language by deleting the phrase "for the purpose of accomplishing unscheduled or

In the view of the Panel, the issue of hours of duty and the issue of holiday hours are related in that they both involve scheduling. It is the opinion of the Panel that the parties in bargaining should address these two issues of holiday hours and hours of duty so that whatever arrangements are made in these two areas they are made by the parties who know best the scheduling needs of the Kenmore Fire Department and the intricacies of fire fighter scheduling. It does not appear to the Panel that these matters have been fully explored by the parties. These two issues should be addressed by the parties when they commence bargaining for a new agreement. Of course, the parties are also free to negotiate new proposals regarding holidays and hours of duty to commence prior to January 1, 1990, if they so desire.

Based on all of the foregoing, the Employer's hours of duty proposal is rejected.

OVERTIME

Presently all overtime work is paid in thirty minute increments, except for off duty time spent by an employee honoring an official court subpoena resulting from an employee's affiliation with the Employer. In that situation, the employee receives a two hour minimum at the

emergency work beyond the capacity of part-time personnel." This language presently appears after the word "delegate" in the first sentence of the overtime provision.

The foregoing indicates five possible changes: (1) a one hour minimum for a full-tone or callback; (2) reducing the increment period for the payment of all overtime from thirty minutes to fifteen minutes; (3) granting a one hour minimum for overtime other than callback or full-tone; (4) a change in the minimum and increment period with respect to an employee's honoring an official court subpoena resulting from an employee's affiliation with the District; and (5) the deletion of the language appearing after the word "delegate" in the first sentence of the overtime provision. I also note that several of the matters were either not discussed or only briefly mentioned during the hearing. The same is true of the posthearing briefs.

The foregoing indicates to your Chairman a lack of serious bargaining on this issue leaving the areas of

dispute not clearly defined. Therefore, based on all of the foregoing, it would not appear appropriate to change the overtime provision at this time.

AWARD OF THE CHAIRMAN

It is the Award of your Chairman that:

A. The term of the Agreement shall be from January 1, 1987 through December 31, 1989.

B. Top step fire fighters (Fire Fighter III) shall receive the following base monthly salary:

Effective January 1, 1987: $2,567.10 per month.

Effective January 1, 1988: $2,645.35 per month.

Effective January 1, 1989: An increase equal to the average of the percentage increase of Seattle area CPI-W and CPI-U between June 1987 and June 1988.

C. The Employer's Hours of Duty proposal is denied.

D. The Union's Premium Pay, Holidays, and Overtime proposals are denied.

July 6, 1988

Seattle, Washington

s/ Michael H. Beck
Michael H. Beck
Neutral Chairman